

Application No: 09/754,204
Attorney's Docket No: XMP 2031

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated November 25, 2003. Applicant, through his representative, would like to thank Examiner Jean Witz for granting the interview of February 20, 2004. Claims 1-126 have been cancelled in response to this action; the applicant reserves the right to file a divisional application covering the subject matter of these claims. Claims 127-144 have been newly presented in response to this action. Claims 127-144 remain in the case. No new matter has been presented. Reconsideration and further examination of the application is respectfully requested.

In the Examiner's Action, Claims 3 and 67 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite due to an improper Markush group. The cancellation of these claims renders these rejections moot.

In the Examiner's Action, Claims 1-5, 9, 53-56, 60-61, 65-69, 73, 115-118, and 122-123 were rejected under 35 USC 102(b) as anticipated by FR 4804, DE 2103387, US 3,008,874, JP 09-087174, JP 04-018022, US 6,608,041 and/or US 6,399,093. The Examiner asserts that each of these references shows compositions comprising an NSAID and at least one of chondroitin and glucosamine. However, the cancellation of these claims renders these rejections moot. Moreover, these references fail to show compositions comprising an NSAID and at least one of chondroitin and glucosamine in combination with a medicinally active antioxidant or immune boosting plant extract, as required by the newly submitted claims. Accordingly, it is requested that these rejections be withdrawn.

In the Examiner's Action, Claims 57, 59, 119, and 121 were rejected under 35 USC 103(a) as unpatentable over FR 4804, US 3,008,874 and US 6,608,041 in view of Campos, Muiel and Kucharz. FR 4804, US 3,008,874 and US 6,608,041 show compositions comprising an NSAID and at least one of chondroitin and glucosamine. Muiel and Campos teach that silymarin protects against acetaminophen hepatotoxicity. Kucharz teaches that silymarin protects against liver damage from aspirin or naproxen. The examiner asserts that addition of silymarin to the compositions of FR 4804, US 3,008,874 and US 6,608,041 would have been obvious to one of ordinary skill in the art so as to protect against hepatotoxicity.

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However, the cancellation of claims 57, 59, 119, and 121 renders this rejection moot. Moreover, these references fail to show compositions comprising an NSAID, at least one of chondroitin and glucosamine, and milk thistle extract in combination with a medicinally active antioxidant or immune boosting plant extract, as required by newly submitted claims 127-144. Accordingly, it is requested that this rejection be withdrawn.

It is submitted that claims 128-135 and 137-144 are allowable because they further depend from and limit their independent claims, which are allowable over the cited art references based upon the above arguments.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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